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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

BONNIE EDEN, DANIEL PINHO,
THOMAS SEAWRIGHT and PAMELA
ZAGER-MAYA, on behalf of themselves
and all others similarly situated,

Plaintiffs,

vs.

23ANDME, INC.,

Defendant.

Case No. 4:23-cv-05200-HSG

**ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES SHOULD
BE RELATED PURSUANT TO CIVIL L.R.
3-12 AND 7-11**

Pursuant to Rule 3-12 and Rule 7-11 of the Civil Local Rules, Bonnie Eden, Daniel Pinho, Thomas Seawright and Pamela Zager-Maya (“Plaintiffs”) move the Court to consider whether cases should be related, as follows:

I. THE TITLE AND CASE NUMBER OF EACH APPARENTLY RELATED CASE

Plaintiffs are the named Plaintiffs in the class action complaint entitled *Eden, et al. v. 23andMe, Inc.*, Case No. 4:23-cv-05200-HSG (“*Eden Action*”) which was filed on October 11, 2023. The *Eden Action* is currently assigned to the Honorable Haywood S. Gilliam, Jr.

Defendant is a genomics and biotechnology company based in South San Francisco, California that provides a direct-to-consumer genetic testing service in which customers provide a saliva sample that is laboratory analyzed, using single nucleotide polymorphism genotyping, to generate reports relating to the customer's ancestry and genetic predispositions to health-related topics.

Plaintiffs’ Complaint alleges that on or about October 6, 2023, Defendant announced on its website that customer profile information was compiled from individual 23andMe.com accounts without account users’ authorization that contained both the personally identifiable information and protected health information of its customers. Plaintiffs’ Complaint further alleges that Defendant announced that the exposed private information might include names, sex, date of birth, genetic ancestry results, profile photos and geographical information. Also on October 6, 2023, it was reported that the sensitive information of nearly seven million of Defendant’s users was offered for sale on the dark web, including that of approximately 1.3 million users who are of Ashkenazi Jewish and Chinese descent.¹

Plaintiffs’ Complaint alleges various causes of action against Defendant for harm caused by Defendant’s alleged failure to keep their and other putative class members’ private sensitive information confidential.

On October 9, 2023, *Santana, et al. v. 23andMe, Inc.* Case No. 3:23-cv-05147-EMC, ECF No. 1 (N.D. Cal), was filed in the Northern District of California, arising out of this same set of factual issues. Following the filing of *Santana*, fourteen cases, including *Eden* were filed

¹ <https://therecord.media/scraping-incident-genetic-testing-site>

in the United States District Court for the Northern District of California. A complete list of the known likely related cases is set forth below:

Andrizzi v. 23andMe, Inc. (Case No. 5:23-cv-05198)

J.S. et al v. 23andMe, Inc., et al. (Case No. 5:23-cv-05234)

Mirza v. 23andMe, Inc. (Case No. 3:23-cv-05259)

Navarro v. 23andMe, Inc. (Case No. 4:23-cv-05281)

Greenberg v. 23andMe, Inc. (Case No. 5:23-cv-05302)

Friend v. 23andMe, Inc. (Case No. 4:23-cv-05323)

Hoffman et al v. 23andMe, Inc. (Case No. 3:23-cv-05332)

Farmer v. 23andMe, Inc. (Case No. 5:23-cv-0534)

Berman et al v. 23andMe, Inc. (Case No. 4:23-cv-05345)

Tulchinsky v. 23andMe, Inc. (Case No. 5:23-cv-05369)

Seikel v. 23andMe, Inc. (Case No. 5:23-cv-05419)

Velez v. 23andMe, Inc. (Case No. 3:23-cv-05464)

The *Eden* Plaintiffs move the Court to consider whether the *Eden* Action should be related to *Santana, et al. v. 23andMe, Inc.* Case No. 3:23-cv-05147-EMC (N.D. Cal) (the “*Santana* Action”), the first-filed action. It is expected that the additional thirteen cases should be and ultimately will be related to the *Santana* action as well.

II. BRIEF STATEMENT OF THE RELATIONSHIP OF THE ACTIONS

Civil Local Rule 3-12(a) provides for actions to be related when: “(1) [t]he actions concern substantially the same parties, property, transaction or event; and (2) [i]t appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different [j]udges.” The *Eden* Action should be related to the *Santana* action because it: (a) asserts the same claims against the same Defendant; (b) arises from the same underlying event, i.e., customer profile information was accessed from individual 23andMe.com accounts without account users’ authorization, which accounts contained both the personally identifiable information (“PII”) and protected health information (“PHI”) of Defendant’s customers; and (c) if the Actions proceed independently of each other it will result

1 in duplicative motions and discovery because the complaints raise the same questions of fact and
2 law. The relation of the other thirteen cases would similarly meet the criteria set forth in Civil
3 Local Rule 3-12(a).

4 All of the cases identified as likely related, including *Santana* and *Eden*, are in the
5 earliest stages as having just recently been filed. Generally, the *Santana* and *Eden* Actions (and
6 the additional thirteen matters identified) assert the same or substantially identical factual
7 allegations against the same Defendant (with one case including an additional defendant), assert
8 the same or similar causes of action and seek largely overlapping relief including damages,
9 injunctive and equitable relief, interest, and attorneys' fees and costs. In particular, *Santana* and
10 *Eden*, and the other thirteen actions allege that the Defendant was duty bound to preserve the
11 confidentiality of the Plaintiffs' personal and health related information in its possession, and
12 that it failed to meet its obligations to keep the information secure from unauthorized access. As
13 a result, the Plaintiffs in both actions allege that they, and all those similarly situated suffered
14 injury. Defendant has not appeared in any of the cases as of this date.

15 Thus, the criteria of Civil L.R. 3-12(a) are satisfied such that consolidation before a
16 single judge will conserve the parties' resources and judicial resources and will avoid "unduly
17 burdensome duplication of labor and expense or conflicting results." CIV. L.R. 3-12(a)(2).

18 **III. CONCLUSION**

19 In light of the nearly identical facts and claims presented in the Action, the *Eden* Action
20 should be related and assigned to the Honorable Edward M. Chen of this Court, where the first-
21 filed *Santana* Action is pending, and where it is expected the additional related matters also will
22 be assigned.
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1 Dated: October 24, 2023

By: /s/ Gayle M. Blatt

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